

FREDERICK E. SICKELS.

[To accompany Bill H. R. No. 827.]

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JUNE 11, 1860.

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Mr. FRANK, from the Committee on Patents, made the following

REPORT.

*The Committee on Patents, to whom was referred the petition of Frederick E. Sickels, the inventor of an improvement in the steam engine known as the "Sickels' cut-off," asking that a law may be passed authorizing the Commissioner of Patents to re-examine his application for an extension of his patent for the term of seven years, submit the following report:*

The petitioner, Frederick E. Sickels, invented a valuable improvement in a steam engine known as "Sickels' cut-off," and on the 20th of May, 1842, a patent was granted him for the same.

In 1856 an application was made to the Commissioner of Patents for an extension, which was opposed by parties against whom suits were then pending for infringements in the circuit courts of the United States.

The testimony was heard before an examiner, and on the 3d of May, 1856, the examiner delivered an opinion that the petitioner was not the inventor of the "cut-off."

The examiner, however, reported that, "Of the other questions involved under an application for the extension of a patent, they can all, as applied to this application, be answered affirmatively;" thus deciding the petitioner entitled to an extension, so far as all the facts necessary to give him that right were concerned, except only the one as to invention.

From this decision the petitioner appealed to the Commissioner of Patents, Judge Mason.

Only five days were left the Commissioner for an examination of the immense mass of testimony, and the engagements of the Commissioner rendered it impossible for him to devote the necessary attention to the task.

He, however, heard the appeal, and made a decision which concluded as follows:

"I see some reason to doubt the correctness of the decision of the examiner, but not sufficient to cause the scale to preponderate deci-

dedly in the contrary direction. The testimony is conflicting and voluminous. *The time which I have been enabled to bestow upon the case has not been sufficient* to enable me to give it that complete analysis which would enable me to come to a conclusion entirely satisfactory to myself, and I feel, therefore, compelled, *somewhat reluctantly*, to refuse the extension, which is accordingly done.

“C. MASON, *Commissioner.*”

In *September*, 1856, a suit at law was tried before Judge Grier, in the circuit court of the United States for the district of New Jersey, against the Gloucester Manufacturing Company for an infringement, involving the question of the originality of the invention.

After a careful and lengthy examination of the question whether Frederick E. Sickels was the first and original inventor of the improved machine claimed in his patent of May 20, 1842, Judge Grier decided: “On this point, I must say that, after a careful examination of the very voluminous and contradictory testimony relating to it, I feel satisfied that Frederick E. Sickels is the first inventor of the improved machinery for effecting a cut-off in steam engines, as described in his patent.”

As this decision of the court was made after the report of the examiner in the Patent Office, the committee are of opinion that there are grounds for supposing that the examiner committed an error, which would have been corrected by the Commissioner of Patents, had time permitted him to fully investigate the case.

January 28, 1858, Judge Mason writes :

“I hereby certify that while Commissioner of Patents an application was made for an extension of the patent for Sickles’ cut-off, and that I was induced to refuse the extension mainly by the fact that the evidence before me showed that he was not the original and first inventor of that contrivance. I am informed that in a subsequent trial before Judge Grier, Mr. Sickels has been shown to be the real first inventor. Had I been clearly satisfied of his having been so, I should, without hesitation, have granted the extension.

“I was fully satisfied of its great utility, and also that he had not been adequately compensated for the invention.

“CHARLES MASON.”

The petitioner does not ask of Congress a renewal of his patent, but simply that he may have a re-hearing before the Commissioner of Patents—giving all parties who desire to oppose ample time to prove any facts, in the same manner that opponents in similar cases may do.

The committee having heard the parties by counsel, at great length, conclude, in view of the facts, that the examiner decided *affirmatively on all questions*, save that of the invention ; that the Commissioner of Patents had “*reason to doubt the correctness of the decision of the examiners,*” upon that point, and *reluctantly* refused the extension ; that subsequently Judge Grier of the circuit court of the United States, after a lengthy, full, and complete trial, decided Sickels, the peti-

tioner, to be the inventor ; that in January, 1858, *Judge Mason*, the Commissioner of Patents, writes : " I am informed that in a subsequent trial before Judge Grier Mr. Sickels has been shown to be the first real inventor. Had I been clearly satisfied of his having been so *I should, without hesitation, have granted the extension.* I was fully satisfied of its great utility and also that he had not been adequately compensated for the invention"—*unanimously* report a bill authorizing the Commissioner of Patents to rehear the application, and to grant an extension of seven years, if the claimant be entitled to it under the laws now in force governing renewals. The committee have so drawn the bill as, in their opinion, to protect the rights of those who may have adopted or used the invention since the expiration of the patent therefor.

